

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TIG INSURANCE COMPANY,
as successor-in-interest to,
TRANSAMERICA INSURANCE COMPANY,

Petitioner,

-against-

FIRST STATE INSURANCE COMPANY,

Respondent.

CIVIL ACTION NO.
04CV12729MLW

**PETITIONER'S RESPONSE TO RESPONDENT'S
MOTION FOR AN ORDER OF IMPOUNDMENT**

Now comes the Petitioner, TIG Insurance Company, as successor-in-interest to Transamerica Insurance Company ("TIG"), and submits this Memorandum in response to the Respondent First State Insurance Company's Motion for Impoundment. TIG, which does not oppose impoundment, takes no position as to whether the requirements for impoundment have been, or can be, met here.

For the record, the factual statements set forth in TIG's Petition are completely accurate. First State's contrary assertion (see Memorandum of Law in Support of the Motion of First State Insurance Company for an Order of Impoundment and Sealing of Confidential Material (the "First State MOL"), at 6) is misplaced. If requested by the Court, TIG is prepared to adduce excerpts from the record of the arbitration (or the entire record if the Court prefers) to establish the accuracy of each factual allegation contained in the Petition.¹

¹ TIG does not address here First State's contention that TIG "distorted" facts in the Petition (see First State MOL, at 6) for two reasons. First, First State did not indicate how it believed TIG "distorted" the facts. Second, the only matter now before the Court is First State's motion to seal. TIG's characterization of the facts in the Petition is not germane to the resolution of First State's motion to seal. If First State opposes confirmation of the Award, and argues that TIG "distorted" facts in the Petition, TIG will respond to First State's assertions as appropriate.

Date: January 10, 2005

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CERTIFICATE OF SERVICE

I, Adam G. Cohen, BBO No. 558689, hereby certify that on this 10th day of January, 2005, I caused a true and accurate copy of the above to be served via facsimile and first class mail, postage prepaid, on the following counsel of record:

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